

1 MELINDA BIRD (SBN 102236)
2 MONISHA A. COELHO (SBN 219233)
3 DISABILITY RIGHTS CALIFORNIA
350 South Bixel Street, Suite 290
4 Los Angeles, CA 90017
Telephone: (213) 213-8000
Facsimile: (213) 213-8001
melinda.bird@disabilityrightsca.org
monisha.coelho@disabilityrightsca.org

6 *Attorneys for Named Plaintiffs and the Class*
7 *Additional Attorneys for Named Plaintiffs and the*
Class on Signature Page

8 STEPHEN P. BERZON (SBN 46540)
9 EVE H. CERVANTEZ (SBN 164709)
STACEY M. LEYTON (SBN 203827)
PEDER J. THOREEN (SBN 217081)
10 RACHEL J. ZWILLINGER (SBN 268684)
Altshuler Berzon LLP
11 177 Post Street, Suite 300
San Francisco, California 94108
12 Telephone: (415) 421-7151
Facsimile: (415) 362-8064
sberzon@altshulerberzon.com
ecervantez@altshulerberzon.com
sleyton@altshulerberzon.com
pthoreen@altshulerberzon.com
rzwillinger@altshulerberzon.com

16 *Attorneys for Plaintiffs SEIU-UHW, SEIU-ULTCW, SEIU*
Local 521, SEIU California State Council, UDW, and CUHW

17
18 UNITED STATES DISTRICT COURT
19 FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

20 DAVID OSTER, *et al.*,

21 v.
Plaintiffs,

22 WILL LIGHTBOURNE, Director of the California
23 Department of Social Services; TOBY DOUGLAS,
Director of the California Department of Health Care
24 Services; CALIFORNIA DEPARTMENT OF HEALTH
CARE SERVICES; and CALIFORNIA DEPARTMENT
25 OF SOCIAL SERVICES,

26 Defendants.

Case No. CV 09-04668 CW

**STIPULATION AND ORDER
CONTINUING THE FURTHER
CASE MANAGEMENT
CONFERENCE PENDING
RESOLUTION OF DEFENDANTS'
PRELIMINARY INJUNCTION
APPEALS IN THE NINTH
CIRCUIT**

1 WHEREAS, a Case Management Conference is scheduled in this case for October 24,
2 2012;

3 WHEREAS, Defendants' preliminary injunction appeal with respect to ABX 4 4 is
4 currently pending in the Ninth Circuit, which has not yet issued its decision;

5 WHEREAS, oral argument on that appeal was heard and the matter submitted on June
6 15, 2010;

7 WHEREAS, the Ninth Circuit vacated the submission and deferred resolution of that
8 preliminary injunction appeal pending the United States Supreme Court's decision in the
9 consolidated appeals of *Douglas v. Indep. Living Ctr. of S. Cal., et al.*;

10 WHEREAS, the United Supreme Court has now issued its ruling in *Douglas*;

11 WHEREAS, on May 21, 2012, the Ninth Circuit ordered the parties to submit letter briefs
12 regarding the mootness impact upon the appeal, if any, of California Welfare & Institutions Code
13 §§12309(i) and 12309.2(e);

14 WHEREAS, those briefs were filed on July 20, 2012;

15 WHEREAS, Defendants filed a preliminary injunction appeal with respect to SB 73 on
16 February 21, 2012 and March 5, 2012;

17 WHEREAS, Defendants filed their opening brief on April 3, 2012; Plaintiffs filed their
18 answering brief on July 19, 2012 and Defendants filed their reply brief on August 16, 2012;

19 WHEREAS, the Ninth Circuit has not yet set a date for oral argument with respect to
20 Defendants' appeal of this Court's preliminary injunction regarding SB 73;

21 WHEREAS, a further case management conference had been set in this case for July 25,
22 2012, but was continued by agreement of the parties to October 24, 2012;

23 WHEREAS, the parties agree that it would be more efficient for the Court and the parties
24 to continue the further case management conference pending resolution of the preliminary
25 injunction appeals;

1 IT IS HEREBY STIPULATED between the parties through their respective counsel that,
2 subject to Court approval:

3 1. The further case management conference scheduled for October 24, 2012 is taken
4 off calendar.
5
6 2. A further case management conference is rescheduled for January 23, 2013, at
7 2:00 p.m.
8
9 3. The parties, by filing another Stipulation and [Proposed] Order, may request an
earlier or later date for the further case management conference depending on the
10 date(s) the Ninth Circuit issues its opinion(s).

11 Dated: October 15, 2012

12 Respectfully Submitted,

13
14 */s/ Melinda Bird*
15 MELINDA BIRD (SBN 102236)
16 MONISHA A. COELHO (SBN 219233)
17 DISABILITY RIGHTS CALIFORNIA
18 LOS ANGELES REGIONAL OFFICE
19 350 South Bixel Street, Suite 290
350 South Bixel Street, Suite 290
Los Angeles, CA 90017
Telephone: (213) 213-8000
Facsimile: (213) 213-8001
melinda.bird@disabilityrightsca.org
monisha.coelho@disabilityrightsca.org

20 SUJATHA JAGADEESH BRANCH (SBN
166259)
21 DISABILITY RIGHTS CALIFORNIA
22 SACRAMENTO REGIONAL OFFICE
1831 K Street
Sacramento, CA 95811
Telephone: (916) 504-5800
Facsimile: (916) 504-5801
sujatha.branch@disabilityrightsca.org

23
24 DARA L. SCHUR (SBN 98638)
ELISSA GERSHON (SBN 169741)
DISABILITY RIGHTS CALIFORNIA
25 BAY AREA REGIONAL OFFICE
1330 Broadway, Suite 500
Oakland, CA 94612
Telephone: (510) 267-1200
Facsimile: (510) 267-1201
dara.schur@disabilityrightsca.org

1 PAULA PEARLMAN (SBN 109038)
2 DISABILITY RIGHTS LEGAL CENTER
3 919 Albany Street
4 Los Angeles, CA 90015
5 Telephone: (213) 736-1031
6 Facsimile: (213) 736-1428
7 paula.pearlman@lls.edu
8 shawna.parks@lls.edu

9
10 CHARLES WOLFINGER (SBN 63467)
11 LAW OFFICE OF CHARLES WOFLINGER
12 4655 Cass Street # 314
13 San Diego, CA 92109
14 Telephone: (858) 272-8115
15 Facsimile: (858) 270-3960
16 Cw@charleswolfinger.com

17
18 JANE PERKINS (SBN 104784)
19 NATIONAL HEALTH LAW PROGRAM
20 101 East Weaver Street, Suite G-7
21 Carrboro, NC 27510
22 Telephone: (919) 968-6308
23 Facsimile: (919) 968-8855

24
25 ABIGAIL K. COURSOLLE (SBN 266646)
26 NATIONAL HEALTH LAW PROGRAM
27 3701 Wilshire Blvd., Ste. 750
28 Los Angeles, CA 90010
Telephone: (310) 736-1652
Facsimile: (213) 368-0774
coursolle@healthlaw.org

29
30 ANNA RICH (SBN 230195)
31 NATIONAL SENIOR CITIZEN LAW CENTER
32 1330 Broadway, Suite 525
33 Oakland, CA 94612
34 Telephone: (510) 663-1055
35 Facsimile: (510) 663-1051
arich@nsclc.org

36
37 *Attorneys for Individual Named Plaintiffs David
38 Oster, Willie Beatrice Sheppard, C.R., Dottie Jones,
39 Andrea Hylton, Helen Polly Stern, Charles
40 Thurman, L.C., and the Plaintiff Class*

41
42 /s/ Stacey Leyton
43 STEPHEN P. BERZON (SBN 46540)
44 EVE H. CERVANTEZ (SBN 164709)
45 STACEY M. LEYTON (SBN 203827)
46 PEDER J. THOREEN (SBN 217081)
47 RACHEL J. ZWILLINGER (SBN 268684)
48 Altshuler Berzon LLP
49 177 Post Street, Suite 300
50 San Francisco, California 94108
51 Telephone: (415) 421-7151

1 Facsimile: (415) 362-8064
2 sberzon@altshulerberzon.com
3 ecervantez@altshulerberzon.com
4 sleyton@altshulerberzon.com
5 pthoreen@altshulerberzon.com
6 rzwilfinger@altshulerberzon.com

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Attorneys for Plaintiffs SEIU-UHW, SEIU-ULTCW,
SEIU Local 521, SEIU California State Council,
UDW, and CUHW

Respectfully Submitted,

/s/ Susan M. Carson
KAMALA HARRIS
Attorney General of California
SUSAN M. CARSON
Supervising Deputy Attorney General
GREGORY D. BROWN (SBN 219209)
NIMROD ELIAS (SBN 251634)
Deputy Attorneys General
California Dept. of Justice
455 Golden Gate Ave Ste 11000
San Francisco, CA 94102
Susan.Carson@doj.ca.gov

Attorneys for Defendants

GENERAL ORDER 45 ATTESTATION

I, Stacey Leyton, am the ECF user whose ID and password are being used to file this stipulation. In compliance with General Order 45, X.B, I hereby attest under the penalty of perjury that concurrence regarding filing this document has been obtained from each of its signatories.

Dated: October 15, 2012

/s/ Stacey Leyton
Stacey Leyton

1 **ORDER**
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GOOD CAUSE APPEARING, pursuant to stipulation and in light of the Ninth Circuit's
oral argument schedule in this case, the Case Management Conference scheduled for October 24,
2012 is continued to April 10, 2013.

IT IS SO ORDERED.

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8 Dated: 10/17/2012


9 Hon. Claudia Wilken
United States District Judge

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